

REMARKS

Entry of the foregoing, re-examination and reconsideration of the above-identified application, as amended, pursuant to and consistent with 37 C.F.R. § 1.116, and in light of the remarks which follow, are respectfully requested.

By the foregoing amendments, Claims 27-31 and 62 have been amended to include the features of Claims 57-61 and 65. Accordingly, Claims 57-61 and 65 have been canceled.

Entry of the foregoing amendments is appropriate since the features of dependent Claims 57-61 and 65 have merely been added to Claims 27-31 and 62. No new issues are presented requiring further consideration and/or search since the features of the claims were previously before the Examiner for consideration. For reasons explained below, it is believed that the foregoing amendments place the claims in condition for allowance. Accordingly, entry of the foregoing amendments is requested.

Turning now to the Official Action, it is noted that Claims 52-61 have not been rejected in the Detailed Action. It is respectfully requested that the Examiner indicate the status of these claims in the next Official Action.

Claims 27-31 and 62 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Onuma et al (JP 05105620), Hotta et al (JP 62036305) or Naeshiro et al (JP 04009317) or Onuma et al (JP 05105643).

It is noted that Onuma et al (JP 05105643) is referred to as "Onuma et al (JP 05105634; hereinafter '634)" in the Official Action. For clarification purposes, Onuma et al (JP 05105643) is referred to herein as Onuma et al '643.

Claims 27-31 and 62 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Shirota et al (JP 06227959) or Higa (JP 01083009) or Ekoshi (JP 63030403).

Claims 27-31 and 62 stand rejected under 35 U.S.C. §103(a) as being allegedly obvious over Onuma et al '620 or Hotta et al or Naeshiro et al or Onuma et al '643.

Claims 27-31 and 62 stand rejected under 35 U.S.C. §103(a) as being allegedly obvious over Shirota etl or Higa or Ekoshi.

Applicants respectfully traverse the above rejections based upon Onuma et al '620, Hotta et al, Naeshiro et al, Onuma et al '643, Shirota et al, Higa and Ekoshi for at least the following reasons.

The present claims are allowable over each of the applied documents, as well as any combinations of these documents, since there is no disclosure or suggestion of the use of cinnamic acid or a mixture of cinnamic acid and at least one derivative thereof as recited in Applicants' claims. As such, the present claims are not *prima facie* obvious over the documents or combinations of documents as applied in the Official Action.

For example, Onuma et al '620, Hotta et al, Naeshiro et al and Onuma et al '643 all refer to the use of particular derivatives of cinnamic acid, rather than cinnamic acid itself or a mixture of cinnamic acid and at least one derivative thereof as recited in Applicants' claims. Specifically, as mentioned in the Official Action, the derivatives noted in each of these documents are, for the most part, hydroxycinnamic acids. Certain of the derivatives mentioned also include alkoxy groups (e.g. Onuma et al '643).

Similarly, Shirota et al, Higa and Ekoshi also refer to the use of particular derivatives of cinnamic acid, rather than cinnamic acid itself or a mixture of cinnamic acid and at least one derivative thereof as recited in Applicants' claims. As noted in the Official Action, these derivatives appear to be aldehyde derivatives of cinnamic acid. There is no apparent disclosure

or suggestion of cinnamic acid or a mixture of cinnamic acid and at least one derivative thereof according to Applicants' claims.

Since none of Onuma et al '620, Hotta et al, Naeshiro et al, Onuma et al '643, Shiota et al, Higa and Ekoshi disclose or suggest the features of the present claims, i.e., the use of cinnamic acid or a mixture of cinnamic acid and at least one derivative thereof, Applicants' claims are not anticipated or *prima facie* obvious over these documents.

Withdrawal of the §§ 102(b) and 103(a) rejections over Onuma et al '620, Hotta et al, Naeshiro et al, Onuma et al '643, Shiota et al, Higa and Ekoshi is requested.

Claims 62-65 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Governor et al (EP 0 396 422) in view of Szijjártó née Auber et al (U.S. Patent No. 4,466,961) or Governor et al in view of McAuslan (WO 88/01166). Applicants respectfully traverse these rejections for at least the following reasons.

The rejections based upon Governor et al, Szijjártó née Auber et al and McAuslan have all been fully traversed in Applicants' previous responses, herein incorporated by reference. The following reasons further support patentability of Applicants' claims over these documents.

As amended, Claim 62 recites the feature that the composition comprises cinnamic acid or a mixture of cinnamic acid and at least one derivative thereof. In contrast, Governor et al does not disclose or suggest cosmetic compositions which include cinnamic acid or a mixture of cinnamic acid and at least one of the recited derivatives. Indeed, Governor et al only appears to refer to the use of 2-ethyl hexyl methoxy cinnamate (i.e. PARSOL MCX), not cinnamic acid itself or a mixture comprising cinnamic acid, as recited in Applicants' claims. As well, Szijjártó née Auber et al and McAuslan do not remedy this deficiency of Governor et al since neither of these

documents mention the use of cinnamic acid or a mixture of cinnamic acid and at least one derivative thereof, nor provide any reason to modify Governor et al to include cinnamic acid.

For at least the foregoing reasons, the claims are patentable over the combination of Governor et al, Szijjártó née Auber et al and McAuslan. Withdrawal of the §103(a) rejections over these documents is requested.

Claims 32-41 and 63-65 stand rejected under 3 U.S.C. §103(a) as being allegedly obvious over any one of Onuma et al '620 or Hotta et al or Naeshiro et al or Onuma et al '643 or Shirota et al or Higa or Ekoshi in view of Szijjártó née Auber et al or any one of Onuma et al '620 or Hotta et al or Naeshiro et al or Onuma et al '643 or Shirota or Higa or Ekoshi in view of McAuslan. Applicants respectfully traverse these rejections for at least the following reasons.

As noted above, Onuma et al '620, Hotta et al, Naeshiro et al, Onuma et al '643, Shirota et al, Higa and Ekoshi do not disclose or suggest the features of the present claims, i.e., the use of cinnamic acid or a mixture of cinnamic acid and at least one derivative thereof. Szijjártó née Auber et al and McAuslan do not remedy the deficiencies of the primary documents since neither mention the use of cinnamic acid or a mixture cinnamic acid and at least one derivative thereof nor provide any reason to modify the primary documents to include cinnamic acid.

For at least the foregoing reasons, the claims are patentable over the combination of Onuma et al '620, Hotta et al, Naeshiro et al, Onuma et al '643, Shirota et al, Higa and Ekoshi with either Szijjártó née Auber et al or McAuslan. Withdrawal of the §103(a) rejections over these documents is requested.

Claims 27-41 and 62-65 stand provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over Claims 18-23 of copending Application Serial

No. 09/887,073. Applicants respectfully request that this rejection be held in abeyance until such time as allowable subject matter is indicated. At that time, Applicants will further address the issue of filing a Terminal Disclaimer. A telephone call to the undersigned to discuss or expedite the filing of a Terminal Disclaimer would be appreciated should this provisional rejection be the only remaining issue in the present application.

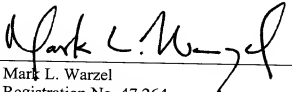
Based on the foregoing, it is believed that the present application is in condition for allowance. A Notice of Allowance is earnestly solicited.

If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at his earliest convenience.

Respectfully submitted,

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Attachment to Reply and Amendment Filed November 12, 2002
Marked-up Version of Claims 27-31 and 62

27. (twice amended) A cosmetic composition suitable for firming of the skin which comprises an amount of cinnamic acid, or a mixture of cinnamic acid and at least one [a] derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, [or mixtures thereof,] effective to provide for firming of the skin and further comprising a cosmetically acceptable carrier therefor.
28. (twice amended) A cosmetic composition suitable for smoothing of the skin which comprises an amount of cinnamic acid, or a mixture of cinnamic acid and at least one [a] derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, [or mixtures thereof,] effective to provide for enhanced smoothing of the skin and further comprising a cosmetically acceptable carrier therefor.
29. (twice amended) A cosmetic composition suitable for tightening of the skin and which comprises an amount of cinnamic acid, or a mixture of cinnamic acid and at least one [a] derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, [or mixtures thereof,] effective to promote tightening of the skin and further comprising a cosmetically acceptable carrier therefor.
30. (twice amended) A cosmetic composition suitable for alleviating the effects of menopause on the skin comprising an amount of cinnamic acid, or a mixture of cinnamic acid and at least one [a] derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, [or mixtures thereof,] effective to alleviate the effects of menopause on the skin and further comprising a cosmetically acceptable carrier therefor.

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Marked-up Version of Claims 27-31 and 62

31. (twice amended) A cosmetic composition suitable for alleviating the effects of menopause on collagen comprising an effective amount of cinnamic acid, or a mixture of cinnamic acid and at least one [a] derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, [or mixtures thereof,] effective to alleviate the effects of menopause on collagen and further comprising a cosmetically acceptable carrier therefor.

62. (amended) A cosmetic composition suitable for firming of the skin, smoothing of the skin, tightening of the skin, and/or alleviating the effects of menopause on the skin which comprises an amount of cinnamic acid or a mixture of cinnamic acid and at least one derivative thereof effective to provide for firming of the skin, smoothing of the skin, tightening of the skin, and/or alleviating the effects of menopause on the skin, respectively, a cosmetically acceptable carrier therefor and at least one other product which stimulates collagen synthesis and/or at least one other product which stimulates lipid synthesis.